IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl.R.No.835 of 2007.
Date of decision: 11.5.2007

Darshan Singh Conductor

.....Petitioner

v.

State of Punjab

.....Respondent.

CORAM: HON'BLE MR.JUSTICE UMA NATH SINGH.

Present:- Mr.A.K.Khunger,Advocate for the petitioner.

Uma Nath Singh,J.

This criminal revision arises out of a judgment dated 17.8.2006 passed by learned Chief Judicial Magistrate, Muktsar, in Criminal Case No.19 dated 11.3.1999 holding the accused petitioner guilty of offence under Section 409 IPC and sentencing him to six months' RI with a fine of Rs.1000/- with further direction to undergo two months' RI in case of default of payment of fine.

As per prosecution version, a case was registered on the basis

of a letter received from General Manager, Punjab Roadways, Muktsar, addressed to the SHO PS Muktsar. The letter stated that accused Darshan Singh was working as a Conductor (No.93). He was on duty from 13.9.1998 to 15.9.1998 with Bus No.9357 on the route from Muktsar to Ludhiana, and then from Jalalabad to Delhi. The accused had been issued bus tickets worth Rs.23,412/-. He returned the unsold tickets worth Rs.10,202/- but he failed to return the cash amount of Rs.13,210/- received for sale of tickets. Accordingly, an FIR was registered, and on investigations a charge for embezzlement of Rs.13,210/- was drawn against him. On the trial, the accused has been visited with the punishment as the aforesaid.

Learned counsel for the petitioner submitted that it was only on account of sudden emergency that his son was admitted in a hospital the petitioner had to rush to a hospital. While going he had handed over the money to the driver of the vehicle. Learned counsel also submitted that there is no such instructions that a Conductor of a bus is under obligation to immediately deposit the unsold tickets and the sale amount received for issuing tickets to the passengers. Learned counsel referred to a judgment of this Court rendered by a learned single Judge which is reported in 1998 (4) RCR (Criminal) 597 Rampal v. State of Haryana. According to that

judgment, it is the intention of the accused and not his act which needs to be punished. Learned counsel further submitted that the petitioner had no opportunity to cross examine the Investigating Officer who was not produced.

I have carefully considered the submissions of the learned counsel and have also perused the impugned judgment. I do not find any force in the submissions. The petitioner has not produced any medical certificate in respect of the ailment of his son to prove that he had to rush to hospital, and therefore, he could not ensure the deposit of the money of the sold tickets. There is no explanation as to why the money was not deposited within a reasonable time, and it was deposited only after a gap of two months. Further, the unsold tickets were deposited but there is no explanation as to why the money of the sold tickets was not deposited. Thus, the circumstances as above suggest the dishonest intention of the petitioner in keeping the money for two months. Hence, criminal revision, being devoid of merit, is dismissed.

11.5.2007. **(Uma Nath Singh)**
joshi **Judge**